Per G.S.SINGHVI, CJ

This is a petition for restraining respondents 2 to 4 from giving effect to the proceedings initiated by the State Bank of India for execution of the decree passed by the Debts Recovery Tribunal, Hyderabad, in O.A.No.226 of 2001.

On 06-12-2005 the Court had, after hearing Sri E.Manoher, Senior Advocate appearing on behalf of the petitioner, passed the following order:

> *"Although we are reluctant to interfere with the proceedings initiated by the State Bank of India, Zonal Office, Secunderabad for recovery of the amount due from the petitioner because the order passed by the Debts Recovery Tribunal, Hyderabad in O.A.No.226 of 2001 does not appear to have been challenged by filing an appeal under Section 21 of the Recovery of Debts due to Banks and Financial Institution Act, 1993, however, keeping in view the averments contained in paragraphs 6 and 8 of the petition and the statement made by Sri E.Manoher, Senior Advocate that his client would clear the entire outstanding amount by 31.3.2006, we deem it proper to interdict in the impending sale of the property of the petitioner society.*
>
> *Notice to the respondents by 19.12.2005 to show cause as to why the writ petition may not be admitted and finally disposed of.*
>
> *Notice of the stay also.*
>
> *In the meanwhile, the impending auction of the properties of the petitioner shall remain stayed subject to the following conditions.*
>
> 1. *Within seven days from today, the petitioner shall deposit Rs.15,00,000/- (Rupees Fifteen lakhs only) with the competent authority of the State Bank of India, Zonal Office, Secunderabad.*
> 2. *Within next 15 days, the petitioner shall deposit the another instalment of Rs.15,00,000/- (Rupees Fifteen lakhs only) with the said authority.*
> 3. *Within seven days from today, the petitioner shall give a written undertaking to the Chief Manager (Credit), SBI Region-II, Zonal Office, Secunderabad that it shall pay the balance amount i.e, the amount remaining due after payment of Rs.30,00,000/- in*

the manner mentioned herein before, on or before 31.3.2006.

If the petitioner fails to abide by either of the aforementioned conditions, the interim order passed today shall stand vacated automatically and the writ petition shall also be liable to be dismissed without being considered on merits."

Learned counsel for the Bank has filed affidavit of Sri D.Venugopal, Chief Manager of State Bank of India, Nizamabad Branch. In his affidavit, Shri Venugopal has averred that the petitioner has not deposited amount in accordance with condition No.1 incorporated in the Court's order dated 6.12.2005.

Learned counsel for the petitioner fairly concedes this position, but submits that his client will be depositing a total amount of Rs.30,00,000/- (Rupees Thirty Lakhs only) by
28-12-2005.

In our opinion, the statement made by the learned counsel for the petitioner cannot be acted upon because in terms of the conditional order passed on 06-12-2005, the stay granted earlier will be deemed to have been vacated. As a corollary of this, the petitioner will be deemed to have forfeited its right to be heard on the merits of the case.

In the result, the writ petition is dismissed.

While dismissing the Writ Petition on account of the petitioner's failure to comply with the conditions specified in the Court's order dated 6.12.2005, we deem it proper to impress upon learned counsel for respondents 2 to 4 that as and when the property of the petitioner is put to auction for realization of the dues of the bank, it should be ensured that possession of the disputed property is handed over to the prospective purchaser only after the end of the current academic session, so that the students, who are to appear in the matriculation examination some time in March/April, 2006 do not suffer.

G.S.SINGHVI, CJ

R.SUBHASH REDDY, J

19th DECEMBER, 2005.

Mvb/***kvni/vtv***

HON'BLE THE CHIEF JUSTICE SRI G.S.SINGHVI

AND

HON'BLE SRI JUSTICE R.SUBHASH REDDY

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Writ Petition No.25960 of 2005

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Between:

Vasu Educational Society . . .Petitioner

And

The Recovery Officer, DRT, Hyderabad,

and others . . .Respondents

:: ORDER ::

Counsel for the petitioner : Sri A.Raghavaiah

Counsel for the respondent No.1 : Sri A.Rajasekhar Reddy,

Asst. Solicitor General

Counsel for the respondent Nos.2 to 4: Sri E.Madan Mohan Rao

December 19, 2005

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